

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7

Dennis E. Hecker,

Bky. Case No. 09-50779-RJK

Debtor.

Randall L. Seaver, Trustee,

Adv. No. 09-5030

Plaintiff,

vs.

Northstate Financial Corporation, Rosedale
Leasing, LLC, Bremer Bank, N.A., and
James W. Plummer,

Defendants.

**APPLICATION FOR DEFAULT JUDGMENT AGAINST DEFENDANTS
NORTHSTATE FINANCIAL CORPORATION, ROSEDALE LEASING, LLC,
AND JAMES W. PLUMMER**

TO: NORTHSTATE FINANCIAL CORPORATION, ROSEDALE LEASING, LLC, AND
JAMES W. PLUMMER AND THE COURT.

1. Plaintiff Randall L. Seaver, trustee of the Chapter 7 bankruptcy estate of Dennis E. Hecker, by his undersigned counsel, applies under Local Rule 7055-1 for entry of default judgment against Defendant Northstate Financial Corporation (“Northstate”), Rosedale Leasing, LLC (“Rosedale”), and James W. Plummer (“Plummer”) in the above-captioned adversary proceeding.

2. Plaintiff applies for entry of default judgment (1) determining that Plummer has no interest in that certain 2007 Cobalt 222 boat, serial no. FGE11242A707, and trailer, identified as the “Cobalt Boat” in the Amended Complaint in this adversary proceeding; and (2) avoiding

under 11 U.S.C. § 548(a)(1)(A) the debtor's transfer of the Cobalt boat, of a 2008 Malibu Wakesetter 23 boat, serial no. MB2S7167H708 and trailer, and a 2008 Harley Davidson FXDSE2, vehicle identification no. 1HD1PS8148K977133.

3. This application is based upon the Declaration of Randall L. Seaver and exhibits thereto, Fed. R. Bankr. P. 7055, and upon the files, records, and proceedings herein.

Dated: January 25, 2010

LAPP, LIBRA, THOMSON, STOEbNER
& PUSCH, CHARTERED

By: /e/ Ralph V. Mitchell
Ralph V. Mitchell (#184639)
Tyler D. Candee (#0386598)
One Financial Plaza, Suite 2500
120 South Sixth Street
Minneapolis, MN 55402
T (612) 338-5815
F (612) 338-6651
RMitchell@lapplibra.com
TCandee@lapplibra.com

**ATTORNEYS FOR PLAINTIFF
RANDALL L. SEAVER, TRUSTEE**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7

Dennis E. Hecker,

Bky. Case No. 09-50779-RJK

Debtor.

Randall L. Seaver, Trustee,

Adv. No. 09-5030

Plaintiff,

vs.

Northstate Financial Corporation, Rosedale
Leasing, LLC, Bremer Bank, N.A., and
James W. Plummer,

Defendants.

**DECLARATION OF RANDALL L. SEAVER IN SUPPORT OF PLAINTIFF'S
APPLICATION FOR DEFAULT JUDGMENT**

Randall L. Seaver declares under penalty of perjury as follows:

1. I am the plaintiff in my capacity as trustee of the Chapter 7 bankruptcy estate of Dennis E. Hecker, and plaintiff in this adversary proceeding ("Plaintiff"). I make this declaration based upon my personal knowledge and review of the files and correspondence in this matter.

A. DEFENDANTS' DEFAULT

2. This adversary proceeding was commenced by Complaint filed on August 12, 2009 [See Doc. No. 1.] On September 8, 2009, Plaintiff filed an Amended Complaint to add James W. Plummer as a Defendant and to assert claims against Mr. Plummer. [See Doc. No. 6.]

The Summons for the Amended Complaint was issued that same day. [See Doc. No. 7.]

3. On September 10, 2009, my counsel in this matter, Lapp, Libra, Thomsom, Stoebner & Pusch Chartered served the Summons and Amended Complaint, by certified mail and first-class mail, upon all Defendants. An Unsworn Certificate of Service was filed with the Court that same day. [See Doc. No. 8.] Attached hereto as Exhibits A, B, C, and D, respectively, are true and correct copies of the ‘Domestic Return Receipt’ with respect to the certified mail service upon Defendants Northstate Financial Corporation (“Northstate”), Rosedale Leasing, LLC (“Rosedale”), Bremer Bank, N.A. (“Bremer”), and Mr. Plummer. I am informed that none of the four services accomplished by first-class mail were returned.

4. On December 1, 2009, Defendant Bremer and Plaintiff entered into a Stipulation by which Bremer disclaimed any interest in the property at issue in this adversary proceeding. [See Doc. No. 10.] The Court approved the stipulation and entered judgment to that effect against Bremer on December 2, 2009. [See Doc. No. 11.]

5. More than 30 days have now passed since the date the Summons was issued and since the Summons and Amended Complaint were served upon the Defendants. None of Northstate, Rosedale, or Mr. Plummer have served or filed an Answer or otherwise defended against the Amended Complaint in this adversary proceeding. As a result they are deemed to have admitted the allegation of the Amended Complaint.

6. I am aware that on or about August 18, 2009, approximately one month before Mr. Plummer was served with the Summons and Complaint, he sent a letter to me, a true and correct copy of which is attached hereto as Exhibit E.

B. IDENTIFICATION OF DEFENDANTS

7. To the best of my knowledge, information and belief, Defendant James W. Plummer's full name and address is: James W. Plummer, 5675 Trenton Lane North, Plymouth, MN 55442. To the best of my knowledge, information and belief, James W. Plummer is not now in the military service or of incompetent status.

8. To the best of my knowledge, information and belief, Defendant Northstate Financial Corporation's full name and address is: Northstate Financial Corporation, 500 Ford Road, St. Louis Park, MN 55426. To the best of my knowledge, information and belief, Northstate Financial Corporation is not now in the military service or of incompetent status.

9. To the best of my knowledge, information and belief, Defendant Rosedale Leasing, LLC's full name and address is: Rosedale Leasing, LLC, 500 Ford Road, St. Louis Park, MN 55426. To the best of my knowledge, information and belief, Rosedale Leasing, LLC is not now in the military service or of incompetent status.

C. MERITS OF THE ACTION

10. As alleged in the Amended Complaint, and deemed admitted, Northstate and Rosedale are entities which were controlled by Debtor. (*See* Amended Compl. at ¶¶ 4-9.)

11. As alleged in the Amended Complaint, and deemed admitted, Debtor and Rosedale formerly were the titled owners of a 2007 Cobalt 222 boat, serial no. FGE11242A707, including a trailer (the "Cobalt Boat") and a 2008 Malibu Wakesetter 23 boat, serial no. MB2S7167H708, including a trailer (the "Malibu Boat"). (*See* Amended Compl. at ¶¶ 11-14, Exs. A-C.)

12. As alleged in the Amended Complaint, and deemed admitted, Debtor and Rosedale transferred the Cobalt Boat and the Malibu Boat and their respective trailers to

Northstate on or about February 17, 2009. (*See* Amended Compl. at ¶¶ 15-17, Ex. D.)

13. As alleged in the Amended Complaint, and deemed admitted, Debtor purchased a 2008 Harley Davidson FXDSE2, vehicle identification no. 1HD1PS8148K977133 (the “Motorcycle”) in December 2008. Debtor paid for the Motorcycle with his personal funds, but caused it to be titled in the name of Northstate. (*See* Amended Compl. at ¶¶ 19-21, Ex. E-F.)

14. As alleged in the Amended Complaint, and deemed admitted, Debtor did not disclose in his schedules the transfers of, or his interest in, the Motorcycle, the Cobalt Boat, or the Malibu Boat. (*See* Amended Compl. at ¶ 22.)

15. As alleged in the Amended Complaint, and deemed admitted, at all times relevant hereto, Debtor maintained possession, use, and control of the Cobalt Boat, the Malibu Boat, and the Motorcycle. (*See* Amended Compl. at ¶¶ 18, 21.)

16. As alleged in the Amended Complaint, and deemed admitted, at all times relevant hereto, Debtor was insolvent. (*See* Amended Compl. at ¶¶ 29, 34.)

17. In Mr. Plummer’s August 18, 2009 letter to me, Mr. Plummer apparently admits that the Cobalt Boat was not, nor was it ever intended to be, titled in Mr. Plummer’s name. According to Mr. Plummer, the Cobalt Boat was intended to be titled in the name of a separate entity, P and H LLC, pursuant to an alleged transaction involving Mr. Plummer, Debtor, and co-Defendant Northstate.

18. As described above, the Cobalt Boat was not titled in the name of P and H LLC.

19. According to my counsel’s review of the online records of the Minnesota Secretary of State’s Office, there is no entity in Minnesota known as P and H LLC, or any entity with a similar name whose registered address is 500 Ford Road in St. Louis Park, Minnesota. This is the same address used by Northstate and Rosedale.

20. Based on the foregoing and Mr. Plummer's failure to answer the Amended Complaint, it appears that Mr. Plummer has decided not to assert any personal interest in the Cobalt Boat.

21. Subsequent to commencement of Debtor's bankruptcy case, I acquired physical possession of the Malibu Boat.

22. I brought this adversary proceeding to obtain clear title to property of the estate titled in the name of others.

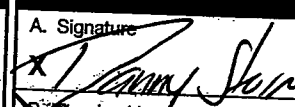
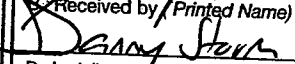
I declare under penalty of perjury that, to the best of my knowledge, the foregoing is true and correct

Executed on January 25, 2010, at Minneapolis, Minnesota.



Randall L. Seaver

EXHIBIT A

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece or on the front if space permits.</p>		<p>A. Signature </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Northstate Financial Corporation ATTN: Officer or Managing Agent 500 Ford Road St. Louis Park, MN 55426</p>		<p>B. Received by (Printed Name) </p>	<p>C. Date of Delivery</p>
<p>2. Article (Trans)</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>PS Form</p>		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

595-02-M-1540

UNITED STATES POSTAL SERVICE

MINNEAPOLIS MN 554

11 SEP 2009 PM 2:11

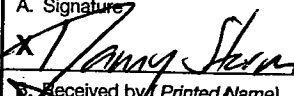
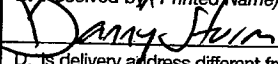
First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-40

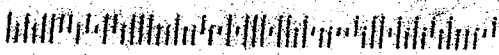
• Sender: Please print your name, address, and ZIP+4 in this box •

Lapp, Libra, Thomson, Stoeber & Pusch
Chartered
One Financial Plaza Suite 2500
Minneapolis, MN 55402

RM 09128

EXHIBIT B

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Rosedale Leasing, LLC, ATTN: Officer or Managing Agent 500 Ford Road St. Louis Park, MN 55426		B. Received by (Printed Name) 	C. Date of Delivery
2. Article Number (Transfer)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
PS Form 3		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	



-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Lapp, Libra, Thomson, Stoeber & Pusch
Chartered
One Financial Plaza Suite 2500
Minneapolis, MN 55402

RVM 091282

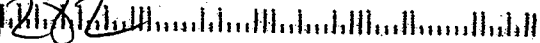


EXHIBIT C

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:

Bremer Bank, N.A.
ATTN: Officer or Managing Agent
633 South Concord Street
So. St. Paul, MN 55075

2. Article
(Transit)
PS Form

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☒ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

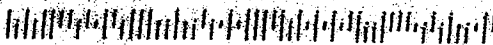
☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

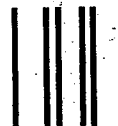
4. Restricted Delivery? (Extra Fee)

☐ Yes



2595-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Lapp, Libra, Thomson, Stoeber & Pusch
Chartered
One Financial Plaza Suite 2500
Minneapolis, MN 55402

RVM 09202



EXHIBIT D

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature X</p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>James W. Plummer 5675 Trenton Lane North Plymouth, MN 55442</p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery</p>
<p>2. Article Number</p> <p>7008 1140 0001 8856 2296</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

UNITED STATES POSTAL SERVICE
MINNEAPOLIS, MN 55402

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Lapp, Libra, Thomson, Stoebner & Pusch
Chartered
One Financial Plaza Suite 2500
Minneapolis, MN 55402

RUM 09282

EXHIBIT E

August 18, 2009

To: Randy Seaver, Matt Burton, Clint Cutler

Re: 2007 Cobalt 222 and trailer Hull ID # FGE11242A707

I don't understand the order to hold my boat and trailer hostage, as no one has contacted me for details on this transaction. This is a brief overview of the facts.

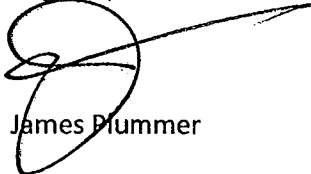
On July 14th 2007 I traded my 2004 Sea Ray and trailer in on a 2007 Cobalt and trailer that better fit my family's needs. The equity in my trade covered roughly half of the cost of the transaction. Denny agreed to have Northstate Financial advance the remaining funds until my performance bonus was paid. It was with this understanding that the boat was to be titled under a new company P and H LLC that Northstate would retain a percentage of ownership and be listed as secured lender on title.

I completed the paperwork with Nisswa Marine, took delivery and forwarded the documents to Sue Miller to pay the balance which she did. I received an email from Sue stating that the insurance should read Rosedale leasing LLC/Will Plummer/Denny Hecker due to the umbrella policy Denny had for any personal exposure. On 8/9/07 I received registration info showing that Sue had changed it to Rosedale Leasing and Denny without my name. I emailed her at that time asking if she had titled it with my name as well as it was my boat. She replied on 8/10/07 that she had done it in all 3 names.

The discrepancy was found and the decision was made to add Northstate as secured lender as it shows today. Inadvertently title was transferred to Northstate. No one was trying to hide assets or defraud creditors. It was an error corrected to make sure the lender was in fact on title. For the record I have paid all insurance, maintenance, gas, storage and been the only user of this boat.

I have attached copies of the original watercraft title and registration form and delivery sheet from Nisswa Marine showing P and H LLC and the two emails from Sue Miller mentioned above. I have contacted my attorney and his official response will be coming forthwith.

Regards,

A handwritten signature in black ink, appearing to be 'James Plummer', with a long horizontal stroke extending to the right.

James Plummer



STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
LICENSE BUREAU
500 LAFAYETTE ROAD
ST. PAUL, MINNESOTA 55155-4026

WATERCRAFT TITLE and REGISTRATION APPLICATION

DNR USE ONLY

REGISTRATION NO. (MUST BE INDICATED)		EXPIRES LAST DAY OF (MONTH) (YEAR)		PURCHASE DATE		STATE WHERE WATERCRAFT LAST TITLED AND REGISTERED OR MSO																																													
				7/14/2007																																															
SECTION 1	LAST FIRST FULL MIDDLE NAME			DRIVERS LICENSE NO.		DATE OF BIRTH																																													
	P AND H LLC					Mo. Day Yr.																																													
PURCHASER(S)	LAST FIRST FULL MIDDLE NAME			DRIVERS LICENSE NO.		Mo. Day Yr.																																													
OWNER(S)	STREET ADDRESS			CITY	STATE	ZIP CODE	PHONE NO. (DURING 8-5 WORKING HRS)																																												
	500 FORD RD			ST LOUIS PARK MN	55425		AREA CODE 612 436																																												
MUST COMPLETE	LENGTH	MAKE OF BOAT	MODEL	HULL I.D. NO. (WILL BE 12 CHARACTERS FOR 1972 AND UP)			YEAR																																												
	37'0"	CODALT	2001	FOLIO 132101			2001																																												
	TYPE OF BOAT										TYPE OF USE										MATERIAL										OTHER																				
	CANOE	SAIL ONLY	KAYAK	PADDLEBOAT	PONTOON	ROWBOAT	OPEN MOTORBOAT	SABIN MOTORBOAT (cruiser)	HOUSEBOAT	SAILBOARD (Windsurfer)	INFLATABLE (raft or boat)	POWING SKIFF	PERSONAL WATER CRAFT (jet ski)	ALUMINUM SAIL	OTHER	PLEASURE	RENTAL	OR LEASE	DEALER OR MFR DEMO	CHARTER FISHING	NON-PROFIT	COMMERCIAL FISHING	OUTBOARD PASTURE/CHURCH	OTHER	OVERSEAS/EXPORT	WALL MATERIAL	WOOD	ALUMINUM	STEEL	FIBERGLASS	WIND RUBBERCA	RIGID HULL INFLATABLES	OTHER	PROPULSION	PROPELLER	SAIL	WATER JET	AIR THRUST	MANUAL	ENGINE DRIVE TYPE	INBOARD	OUTBOARD	INBOARD/STERN DRIVE	NON-MOTOR							
	1	2	3	5	6	7	8	9	10	11	12	13	14	15	16	1	2	3	4	5	6	7	8	9	10		1	2	3	4	5	6	6	9		1	2	3	4	5		1	2	3	4		1	2	3	4	
SECTION 2 LOAN INFORMATION MUST COMPLETE	HP																				300 H HP																				FUEL TYPE		<input type="checkbox"/> Diesel								
	IS THIS WATERCRAFT SUBJECT TO SECURITY AGREEMENT(S)?																																								<input type="checkbox"/> Electric		<input type="checkbox"/> Gasoline								
	<input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, COMPLETE INFORMATION BELOW																																																		
	FIRST SECURED PARTY (PRINT NAME)																				TIME & DATE OF LOAN										NOTE: WHEN THERE IS A LIEN THE TITLE WILL BE SENT TO THE FIRST SECURED PARTY																				
ADDRESS (NO. & STREET, RFD, BOX NO.)																				CITY										STATE										ZIP CODE											
SECTION 3 SELLERS MUST COMPLETE AND SIGN	ASSIGNMENT BY SELLER																																																		
	I (WE) THE OWNER(S) OF THIS WATERCRAFT CERTIFY THE WATERCRAFT IS FREE OF ALL SECURITY INTERESTS, WARRANTY TITLE, AND ASSIGN THE TAXES PAID TO THE PERSON(S) NAMED AT SELLER'S TRANSFEROR(S) SIGNATURE(S) (ALL SELLER'S MUST SIGN)																				DATE OF SALE																														
	X																				7/14/2007																														
	STREET ADDRESS																				SECTION 4																														
	24230 SMILEY ROAD																				TITLE/TRANSFER FEE																														
CITY																				Renewal/Registration (If Due)																															
MISSWA, MN 56468																				Exotic Species Surcharge (Due with Registration/Renewal Only)																															
DEALER NAME (If Seller is a dealer)																				STATE																															
MISSWA MARINE																				ZIP CODE																															
DEALER PHONE NUMBER																				SUBTOTAL																															
2186302292																				STATE/DEPUTY FEE																															
																				TOTAL AMOUNT DUE \$																															
SECTION 5 ALL APPLICANTS MUST SIGN	I/WE LISTED ABOVE AM/ARE THE PURCHASERS OF THE WATERCRAFT DESCRIBED ABOVE AND DO HEREBY MAKE APPLICATION FOR THE CERTIFICATE OF TITLE AND CERTIFY, UNDER PENALTY OF PERJURY, THAT THE STATEMENTS MADE HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, AND THAT THE WATERCRAFT IS SUBJECT TO THE LIEN AND ENCUMBRANCE LISTED AND NONE OTHER.																																																		
	X SIGNATURE																				X SIGNATURE																														
	DATE																				DATE																														
MUST BE SIGNED PERSONALLY BY THE OWNER(S) IF FIRM OR CORPORATION BY AN AUTHORIZED AGENT																																																			
ALL DATA COLLECTED ON A WATERCRAFT APPLICATION, WITH THE EXCEPTION OF YOUR HOME TELEPHONE NUMBER, ARE REQUIRED BY LAW. THESE DATA ARE USED TO IDENTIFY YOUR WATERCRAFT. FAILURE TO PROVIDE REQUIRED DATA MAY RESULT IN DENIAL OF THE TRANSFER OF OWNERSHIP, REGISTRATION OF THIS WATERCRAFT OR OTHER REQUIRED ACTION. YOUR RECORD IS PUBLIC AND TRANSCRIPTS MAY BE ISSUED TO ANYONE.																																																			
DO NOT SIGN UNTIL COMPLETED																																																			
10-DAY TEMPORARY PERMIT																																																			

THIS WATERCRAFT MAY BE OPERATED WITH THIS TEMPORARY PERMIT FOR A PERIOD OF TEN (10) DAYS FROM THE DATE OF ISSUANCE FOR THE PURPOSE OF OBTAINING MINNESOTA REGISTRATION. THIS PERMIT MAY NOT BE REPLACED OR UPDATED.

7-14-07
DATE PERMIT ISSUED

7-2707
DATE PERMIT EXPIRES


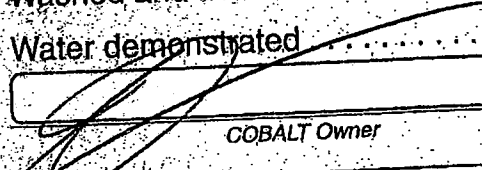


COBALT BOATS
1715 N. 8th
NEODESHA, KS. 66757

NEW BOAT CHECK SHEET

The top portion of this form is to be completed at the time of delivery of a new Cobalt with all items initialed and the form signed by both parties.
If the boat has been registered online, the bottom portion may be left blank with the exception of the owner's name.
Please send the hard card to Cobalt immediately to initiate the warranty program.

DATE 7/14/07

	Dealer Initials	Owner Initials		Dealer Initials	Owner Initials
Control operation			Service/Warranty		
Shift	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Owner has received and read Cobalt Limited Warranty	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Throttle	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Service Requirements (see back)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Power Trim	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Winterization Requirements	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Steering	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Owner agrees to bring boat back to dealer for service	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Electrical system			Owner agrees to service call charges, if applicable	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Lights	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Service arrangements with another marine dealer agreed upon	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Blower	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Misc.		
Bilge pump	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Engine Break in	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Horn	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Battery switch operation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Cabin Distribution Panel	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Canvas installation and storage	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Options (Docklights, stereo, etc.)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Storage procedures (See back)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Instrument operation			Owners Manual supplied	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Power trim gauge	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Washed and detailed	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Speedo, tach, etc.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Water demonstrated	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Depth Gauge	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
 COBALT Delivery Specialist			 COBALT Owner		

☐ THIS OWNER HAS OWNED COBALT(S) PREVIOUSLY.

☐ YES, THIS NEW COBALT HAS BEEN REGISTERED ONLINE.
(INCLUDE OWNER'S NAME ONLY IN THE SPACE PROVIDED BELOW.)

OWNERS NAME (Required) P and H LLC
MAILING ADDRESS 500 Ford Rd
SHIPPING ADDRESS
CITY, STATE, ZIP ST LOUIS PARK MN 55426
HOME PH 763 439 7376 WORK PH
E-MAIL ADDRESS NISSWA MARINE, MINNESOTA
DEALER & LOCATION NISSWA MARINE, MINNESOTA
BOAT SERIAL # US-FGE 11242A707
ENGINE SERIAL # 0W682679 DRIVE SERIAL # 0W931317
TIME SERIAL # 0W931317

When this form is returned to COBALT, you will be sent an engraved owners plaque that can be mounted on your COBALT. The plaque says:
"This COBALT has been designed and styled especially for:

P & H LLC

For example: Mr. & Mrs. John Doe, Capt. and Mrs. John Doe, The John Doe Family, etc.)

Salesperson's Number & Name

Susan A. Miller

Sent: Tuesday, July 17, 2007 11:52 AM

To: Will Plummer

Insurance:

Put Boat under
Roseale Leasing, LLC
Will Plummer
Dennis Hecker

no P and H LLC

RE:

Susan A. Miller

Sent: Friday, August 10, 2007 7:45 AM

To: Will Plummer

Hey, where is this baby?

-----Original Message-----

From: Will Plummer

Sent: Friday, August 10, 2007 7:41 AM

To: Susan A. Miller

Subject: Re:

Ok thanks

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Susan A. Miller

To: Will Plummer

Sent: Fri Aug 10 07:32:31 2007

Subject: RE:

Should have all 3

-----Original Message-----

From: Will Plummer

Sent: Thursday, August 09, 2007 7:07 PM

To: Susan A. Miller

Subject:

I got the plates and registration for boat thanks. Does the paperwork list both dh and me on it? The dnr sticker just shows rosedale llc and dh. Just checking thanks.

Sent from my BlackBerry Wireless Handheld

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7

Dennis E. Hecker,

Bky. Case No. 09-50779-RJK

Debtor.

Randall L. Seaver, Trustee,

Adv. No. 09-5030

Plaintiff,

vs.

Northstate Financial Corporation, Rosedale
Leasing, LLC, Bremer Bank, N.A., and
James W. Plummer,

Defendants.

UNSWORN CERTIFICATE OF SERVICE

I, Janet L. Pipp, declare under penalty of perjury that on January 25, 2010, I mailed a copy of the following documents:

- (1) Application For Default Judgment Against Defendants Northstate Financial Corporation, Rosedale Leasing, LLC, And James W. Plummer;
- (2) Declaration Of Randall L. Seaver In Support Of Plaintiff's Application For Default Judgment; and
- (3) Proposed Findings Of Fact, Conclusions Of Law, And Order For Judgment

by first class mail postage prepaid to each party named below at the address stated below for each party:

Northstate Financial Corporation
ATTN: Officer or Managing Agent
500 Ford Road
St. Louis Park, MN 55426

Rosedale Leasing, LLC,
ATTN: Officer or Managing Agent
500 Ford Road
St. Louis Park, MN 55426

James W. Plummer
5675 Trenton Lane North
Plymouth, MN 55442

Executed on January 25, 2010

/e/ Janet L. Pipp
Janet L. Pipp, Legal Secretary
Lapp, Libra, Thomson, Stoebner &
Pusch, Chartered
120 South Sixth Street, Suite 2500
Minneapolis, MN 55402
612/338-5815

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7

Dennis E. Hecker,

Bky. Case No. 09-50779-RJK

Debtor.

Randall L. Seaver, Trustee,

Adv. No. 09-5030

Plaintiff,

vs.

Northstate Financial Corporation, Rosedale
Leasing, LLC, Bremer Bank, N.A., and
James W. Plummer,

Defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR JUDGMENT

This adversary proceeding came before the court upon the application of the plaintiff for default judgment against defendants Northstate Financial Corporation, Rosedale Leasing, LLC, and James W. Plummer. Based upon the application, the declaration of Randall L. Seaver and exhibits thereto, the amended complaint and exhibits thereto, and the file, the court makes the following:

FINDINGS OF FACT

1. The plaintiff is the trustee in this bankruptcy case.
2. The debtor's bankruptcy case was commenced on June 4, 2009.
3. Defendants Northstate and Rosedale were owned and controlled by the debtor prior to commencement of the debtor's bankruptcy case.

4. The plaintiff filed the amended complaint in this adversary proceeding on September 8, 2009.

5. The clerk issued a summons for the amended complaint to all of the defendants on September 8, 2009.

6. The plaintiff properly served the summons and amended complaint on all of the defendants on September 10, 2009.

7. The plaintiff and defendant Bremer Bank, N.A. subsequently entered into a stipulation for judgment that Bremer Bank has no interest in the Cobalt Boat, the Malibu Boat, and the Harley Davidson motorcycle that are the subject of this adversary proceeding. The court entered judgment pursuant to that stipulation on December 2, 2009.

8. More than 30 days have passed since the summons for the amended complaint was issued.

9. Defendants Northstate, Rosedale, and Plummer have not served or filed an answer or otherwise defended against the plaintiff's amended complaint.

10. At the time the debtor's case was commenced, Plummer had not received a certificate of title or manufacturer's or importer's certificate for the Cobalt Boat.

11. Prior to February 17, 2009, the debtor and Rosedale were identified as the titled owners of that certain 2007 Cobalt 222 Boat, serial no. FGE11242A707, including a trailer, identified as the "Cobalt Boat" in the amended complaint in this adversary proceeding.

12. Prior to February 17, 2009, the debtor and Rosedale were identified as the titled owners of that certain 2008 Malibu Wakesetter 23 Boat, serial no. MB2S7167H708, including a trailer, identified as the "Malibu Boat" in the amended complaint in this adversary proceeding.

13. On February 17, 2009, the debtor and Rosedale transferred title to the Cobalt Boat and the Malibu Boat to Northstate, but the debtor retained possession, use, and control of the Cobalt Boat and the Malibu Boat.

14. In December 2008, the debtor purchased a 2008 Harley Davidson FXDSE2, vehicle identification no. 1HD1PS8148K977133 identified as the “Motorcycle” in the amended complaint in this adversary proceeding.

15. The debtor paid for the motorcycle with his personal funds, but caused the motorcycle to be titled in the name of Northstate.

16. At all times relevant hereto, the debtor retained possession, use, and control of the motorcycle.

17. Following the commencement of the debtor’s case, the plaintiff obtained physical possession of the Malibu Boat.

CONCLUSIONS OF LAW

1. Northstate, Rosedale, and Plummer are in default due to their failure to timely answer or respond to the amended complaint.

2. Northstate and Rosedale are insiders of the debtor within the meaning of 11 U.S.C. § 101(31)(A).

3. The Cobalt Boat and the Malibu Boat are watercraft that are required to be titled by Minn. Stat. § 86B.825.

4. Minn. Stat. § 86B.825, Subd. 5 provides that “[A] person acquiring a watercraft, required to have a certificate of title under this section, through a sale or gift does not acquire a right, title, claim, or interest in the watercraft until the person has been issued a certificate of title to the watercraft or has received a manufacturer's or importer's certificate.”

5. Plummer does not have any interest in the Cobalt Boat.
6. By virtue of the transfers to Northstate, Rosedale has no interest in the Cobalt Boat or the Malibu Boat.
7. The debtor's transfer of his interest in the Cobalt Boat and trailer, the Malibu Boat and trailer, and the motorcycle constitute transfers of an interest of the debtor in property.
8. The debtor's transfer of the Cobalt Boat, the Malibu Boat, and the motorcycle were made within two year before the commencement of the debtor's case.
9. The debtor was insolvent within the meaning of 11 U.S.C. § 101(32) at the time he transferred the Cobalt Boat, the Malibu Boat, and the motorcycle to Northstate.
10. The debtor made the transfers of the Cobalt Boat, the Malibu Boat, and the motorcycle with actual intent to hinder, delay, or defraud his creditors.
11. The transfers of the Cobalt Boat, the Malibu Boat, and the motorcycle are fraudulent transfers within the meaning of 11 U.S.C. §§ 548(a)(1)(A) and (a)(1)(B) and Minn. Stat. §§ 513.44 and 513.45, and the plaintiff is entitled to avoid these transfers.
12. The plaintiff is entitled to judgment against defendants Northstate, Rosedale, and Plummer avoiding the transfers of the Cobalt Boat, the Malibu Boat, and the motorcycle and preserving these transfers for the benefit of the estate

ORDER FOR JUDGMENT

1. The debtor's transfers of the Cobalt Boat and trailer, the Malibu Boat and trailer, and the motorcycle are avoided. The Cobalt Boat, the Malibu Boat, and the motorcycle are property of the estate free of any interest of Plummer, Northstate or Rosedale.
2. The Minnesota Department of Natural Resources and/or the Minnesota Department of Public Safety as appropriate shall issue new certificates of title for the Cobalt

Boat and trailer, the Malibu Boat and trailer, and the motorcycle in the name of Randall L. Seaver, as trustee of the bankruptcy estate of Dennis E. Hecker free and clear of any liens or interests in favor of Plummer, Northstate or Rosedale.

Dated:

Robert J. Kressel
United States Bankruptcy Judge